

**REGULAR STATE BANKING BOARD MEETING
OFFICE OF THE COMMISSIONER
DEPARTMENT OF FINANCIAL INSTITUTIONS
2000 SCHAFER STREET, SUITE G
BISMARCK, NORTH DAKOTA**

January 10, 2013

The regular meeting of the State Banking Board was held in the Office of the Commissioner, Department of Financial Institutions, 2000 Schafer Street, Suite G, Bismarck, North Dakota. Chairman Entringer called the meeting to order at 9:03 a.m., Thursday, January 10, 2013, by conference call.

MEMBERS PRESENT: Robert J. Entringer, Chairman (*Office*)
Nancy Baerwald, Member (*Cando*)
Linda Beall, Member (*Velva*)
Bill Daniel, Member (*Bismarck*)
Kim Larson, Member (*Office*)
Anita Quale, Member (*Watford City*)
Tom Stennes, Member (*Harwood*)

MEMBER ABSENT: None

ALSO PRESENT: Aaron K. Webb, Secretary (*Office*)
Suzette Richardson, Administrative Staff Officer (*Office*)
Lise Kruse, Chief Examiner – Banks (*Fargo*)
Janilyn Murtha, Assistant Attorney General (*Office*)
Edward Erickson, Assistant Attorney General (*Office*)
Bruce and Elaine Peterson (*Bemidji, MN*)
Nate Smith (*Bemidji, MN*)

Chairman Entringer asked the Board if there was any objection to go into closed session in order to address the informal complaint regarding Citizens State Bank – Midwest, Cavalier. No objections were voiced by the Board.

The Board went into closed session at 9:04 a.m. to review an informal bank complaint pursuant to North Dakota Century Code 6-01-07.1., and reconvened to open session at 9:46 a.m.

INFORMAL COMPLAINT – CITIZENS STATE BANK – MIDWEST, CAVALIER

At this time Chairman Larson reiterated the three options Assistant Attorney General Erickson presented for the Board's consideration regarding the informal complaint by Mr. and Mrs. Peterson against Citizens State Bank – Midwest, Cavalier: (1) to dismiss the complaint; (2) to wait until all civil proceedings between the parties are settled; or (3) to move forward with the complaint.

It was moved by Member Beall that the Board adopt option one, to dismiss the informal complaint, for lack of Board jurisdiction to address matters outlined within the informal complaint.

Member Beall added she does not believe the Board has any jurisdiction on various items addressed by the Petersons and that this matter should be dealt with in a civil court case.

The motion was seconded by Member Stennes. The motion was carried by a vote of 6 to 0, with Chairman Entringer abstaining.

Assistant Attorney General Erickson explained that because the complaint involved the Commissioner's actions, Commissioner Entringer has decided to abstain from voting on the complaint. Assistant Attorney General Erickson added there is legal authority in support of Commissioner Entringer's decision to abstain.

Chairman Larson stated that Mr. and Mrs. Peterson have heard the Board's vote, thanked them for their time, and stated the Board and Department understand their concerns; however, believes they have received a good explanation from Assistant Attorney General Erickson on how these matters are more appropriate for the district court and the Board does not have the jurisdiction.

Assistant Attorney General Murtha explained to Mr. and Mrs. Peterson that the motion and vote occurred in the open session; therefore, will be reflected in minutes. Assistant Attorney General Murtha indicated if they would like to obtain a

copy of those minutes they will be available after the Board has approved them at the next meeting, which is March 14, 2013.

Mrs. Peterson asked if the bank would receive a copy of the minutes to be used against her in court. Chairman Larson explained that the bank could also request a copy of the minutes; however, they will not be sent a copy unless requested. It was stressed that only copies of the open session could be provided to any party. Assistant Attorney General Erickson added that any documents relating to the Peterson's complaint do not become open records until the complaint is resolved. Assistant Attorney General Erickson continued that upon resolution either the Petersons or the bank could request copies of these open records.

Mrs. Peterson asked if it is correct that two people at this meeting that have interjected other comments and helped with the Board are part of the Attorney General's Office, and Chairman Larson indicated that was correct. Mrs. Peterson explained she was advised to forward her information to several offices in MN that have been helping her on the federal level; adding that she had not realized the rules and conduct of the closed and open portions. Mrs. Peterson stated since they have had something used against them once in court, she is sad to say that she is probably going to see the same thing happen again. Mrs. Peterson added that she appreciates the time given to them; however, she has many complaints that have been left unanswered, and without a proper review of somebody, since the Attorney General's Office forwarded her a letter indicating that they do not oversee this Board, she will need to find out who in North Dakota can help her. Mrs. Peterson indicated she would appreciate if the Attorney General could answer that question for her before we close.

Assistant Attorney General Erickson explained that this Board is appointed by the Governor and is acting independently under the statutes governing its procedures.

Chairman Larson stepped down and Chairman Entringer resumed his role as Chairman at 9:52 a.m.

APPROVAL OF MINUTES

Chairman Entringer indicated the Board received copies of the minutes of the regular meeting held on November 1, 2012, and the special meeting held on November 28, 2012.

It was moved by Member Larson, seconded by Member Baerwald, and unanimously carried to approve the November 1, 2012, and November 28, 2012, minutes as presented.

ITEMS TO BE NOTED

Chairman Entringer indicated that on December 3, 2012, he approved, as Commissioner, an application by First International Bank & Trust, Watford City, to close its interstate branch at 6263 E Main St, Mesa, AZ, effective December 28, 2012.

Chairman Entringer indicated that December 20, 2012, he approved, as Commissioner, an application by Citizens State Bank – Midwest, Cavalier, to close its interstate branch at 101 Shevlin Ave SW, Bemidji, MN, to become effective January 31, 2013.

Chairman Entringer indicated that on December 3, 2012, he approved, as Commissioner, an application by First International Bank & Trust, Watford City, to relocate its interstate branch from 6840 E Indian School Rd, Scottsdale, AZ, to 2231 E Camelback Rd, Ste 107, Phoenix, AZ.

Chairman Entringer indicated that on December 21, 2012, he approved, as Commissioner, an application by Bell State Bank & Trust, Fargo, to establish a LPO at 299 Coon Rapids Blvd, Ste 100, Coon Rapids, MN.

BANK BUDGET UPDATE

Chairman Entringer reviewed the November 30, 2012, Organizational Status Report by Summary Account and Source.

BANK OF NORTH DAKOTA ASSESSMENT

Chairman Entringer explained he has not had an opportunity meet with either President Hardmeyer or CFO Porter of the Bank of North Dakota, so there is no update on the assessment at this time. Chairman Entringer added he has provided his assessment proposal to President Hardmeyer and CFO Porter.

Member Larson indicated according to the minutes of the Board's last meeting it appears the issue with the Bank of North Dakota is its growth. Member Larson added it has been discussed many times that the Department does not audit the bank's guaranteed portion, which CFO Porter indicated is 51% of the bank's loan portfolio; however, he suggested due to the uncontrollable deposits and securities, that the bank's assessment asset size be determined by the size of the non-guaranteed loan portion of their loan portfolio, plus the appropriate capital.

Chairman Entringer agreed this is similar to his proposal, adding that he would request the Bank of North Dakota's calculation of the amount of their guaranteed loans and deduct that from the total assets, and base the assessment on that amount. Chairman Entringer stated that CFO Porter would also like the securities deducted. Chairman Entringer indicated the Department does review the securities portfolio during the examination in order to obtain a market value; therefore, he is questioning deducting the U.S. government securities from calculation.

Member Larson asked how often the Department examines the Bank of North Dakota, and Chairman Entringer indicated by statute the bank must be examined every 24 months.

LEGISLATION

Chairman Entringer explained the Department has introduced two bills, one regarding the bank division. Chairman Entringer added the Department's budget hearing is scheduled for January 17, 2013.

The Petersons left the conference call at 10:00 a.m.

The Board went into closed session at 10:00 a.m. to review the Supervisory Reports of Examination pursuant to North Dakota Century Code 6-01-07.1., and reconvened to open session at 10:39 a.m.

The meeting adjourned at 10:40 a.m.

Robert J. Entringer, Chairman

Aaron K. Webb, Secretary